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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 17-CR-00452 JSW
)	
Plaintiff,)	ORDER DETAINING DEFENDANT
)	
v.)	<u>AS MODIFIED</u>
)	
KEVIN HAMPTON,)	
)	
Defendant.)	
)	

ORDER OF DETENTION

On or about June 22, 2022, the Court issued an arrest warrant in connection with a Form 12 charging defendant with various violations of supervised release, including violating the mandatory condition that defendant not commit any federal, state or local crime. Defendant was charged with being a felon in possession of a firearm and various other state crimes after he was arrested by Oakland Police Officers and found in possession of a firearm on his person on or about June 21, 2022.

A detention hearing was held on August 17, 2022, with the Court and all parties appearing at the hearing in person. Defendant was represented by his attorneys Edwin Prather and Jason Leung. United States Probation Officer Chris Loman was also present at the hearing, with Officer Loman

1 recommending that defendant be detained pending resolution of the Form 12. The parties submitted
2 proffers and arguments.

3 The defense argued that defendant had already been released by a state court judge with an ankle
4 monitor and that the conditions imposed by the state court judge were sufficient to assure the safety of
5 the community and defendant's appearance at future proceedings. The government argued that the
6 nature of the allegations against defendant in connection with his arrest on June 21, 2022 demonstrated
7 that defendant represented both a danger to the community and a flight risk. Government counsel
8 summarized aspects of the police report associated with defendant's arrest, including defendant
9 struggling with the police when they attempted to detain him after observing a suspected firearm in his
10 waistband and defendant grabbing the firearm during the struggle. Government counsel also
11 summarized the police report's description of defendant's attempt to flee from the police and hospital
12 personnel after the police took him to a hospital to address any possible injuries defendant may have
13 suffered on account of the struggle with police. Defendant fled from the police at the hospital after
14 handcuffs were removed from him for the purpose of taking x-ray images. The defense did not contest
15 or rebut the government's description of the facts alleged in the police reports generated following
16 defendant's arrest.

17 Since Defendant is charged with a supervised release violation, Defendant bears the burden of
18 establishing that he is not a flight risk or a danger to the community by clear and convincing evidence.
19 Fed. R. Crim. P. 32.1(a)(6); 18 U.S.C. § 3143. If there is probable cause to believe the defendant
20 committed another state, federal or local crime while on supervised release, there is a presumption that
21 there are no conditions or combination of conditions that the court can impose to mitigate the risk of
22 flight or danger to the community. *See* 18 U.S.C. § 3148.

23 Upon consideration of the court file, including the allegations in the Form 12, the parties'
24 proffers at the detention hearing, and the Probation Officer's recommendation of detention, the Court
25 finds that Defendant has failed to meet his burden to show by clear and convincing evidence that he is
26 not a flight risk or danger to the community.

27 This Order supplements the Court's findings at the detention hearing and serves as written
28 findings of fact and statement of reasons as required by Title 18, United States Code, Section 3142(i).

ORDER DETAINING DEFENDANT

1 The Bail Reform Act of 1984 sets forth the factors the Court must consider in determining
2 whether detention is warranted. In reaching its decision, the Court has considered those factors,
3 including:

- 4 (1) the nature and circumstances of the offense charged;
- 5 (2) the weight of the evidence against the person;
- 6 (3) the history and characteristics of the person including, among other considerations, ties to
7 the community, employment, past conduct and criminal history, and record of court appearances;
8 and,
- 9 (4) the nature and seriousness of the danger to any person or the community that would be posed
10 by the person's release.

11 See 18 U.S.C. § 3142(g).

12 After considering all of the facts and proffers presented at the hearing, including the information
13 contained in the Pretrial Services report, the Court also finds that no condition or combination of
14 conditions will reasonably assure defendant's appearance at future proceedings or the safety of any other
15 person and the community. Thus, the Court orders the defendant detained pending resolution of the
16 charges in the Form 12.

17 Accordingly, pursuant to 18 U.S.C. §§ 3142 and 3148, IT IS HEREBY ORDERED THAT:

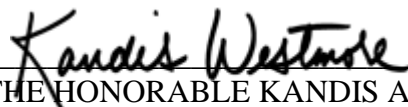
- 18 (1) Defendant is committed to the custody of the Attorney General for confinement in a
19 corrections facility separate, to the extent practicable, from persons awaiting or serving
20 sentences or being held in custody pending appeal;
- 21 (2) Defendant be afforded reasonable opportunity for private consultation with his counsel;
22 and,
- 23 (3) on order of a court of the United States or on request of an attorney for the government,
24 the person in charge of the corrections facility in which Defendant is confined shall
25 deliver Defendant to an authorized Deputy United States Marshal for the purpose of any
26 appearance in connection with a court proceeding.

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1 IT IS SO ORDERED.

2 August 23, 2022

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4 THE HONORABLE KANDIS A. WESTMORE
5 United States Magistrate Judge
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